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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN TENNISON,

12 Plaintiff,

13 v.

14 CITY AND COUNTY OF
SAN FRANCISCO; SAN FRANCISCO
15 POLICE DEPARTMENT; PRENTICE EARL
SANDERS; NAPOLEON HENDRIX; and
16 GEORGE BUTTERWORTH,

17 Defendants.

Case No. C 04-00574 CW (EMC)

**EXHIBIT 22 TO DECLARATION OF
DANIEL E. PURCELL IN SUPPORT OF
JOHN TENNISON'S OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT
AND CROSS-MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
MUNICIPAL LIABILITY**

Date: October 28, 2005

Time: 10:00 a.m.

Courtroom: 2

Judge: The Hon. Claudia Wilken

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN TENNISON,

Plaintiff,

vs.

Case No. C 04-00574 CW

CITY AND COUNTY OF SAN
FRANCISCO; SAN FRANCISCO
POLICE DEPARTMENT; PRENTICE
EARL SANDERS; NAPOLEON HENDRIX;
and GEORGE BUTTERWORTH,

Defendants.

VIDEOTAPED DEPOSITION OF NAPOLEON HENDRIX

Volume I, pages 1 - 238

Tuesday, January 18, 2005

Reported by:

HEIDI BELTON, CSR #12885, RPR

COPY

JAN BROWN & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS

476 Jackson Street, San Francisco, California 94111

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0 36:38 1 witness fund, was that payments would be made in cash?

09:36:43 2 MR. QUADRA: Objection. Mischaracterizes his
09:36:45 3 testimony.

09:36:46 4 THE WITNESS: That --

09:36:46 5 MR. QUADRA: Go ahead.

09:36:47 6 THE WITNESS: I didn't say that, sir.

09:36:48 7 Q. (By Mr. Peters) What is your understanding
09:36:49 8 about whether payments that were made pursuant to the
09:36:53 9 secret witness fund were made by check, in cash, or
09:36:58 10 using some other method?

09:37:00 11 A. I know of one that was made in cash.

09:37:04 12 Q. And do you have any further understanding of
09:37:07 13 how payments under the secret witness fund were made?

09:37:09 14 A. No.

09:37:11 15 Q. Did you ever discuss the secret witness fund
09:37:13 16 with any members of the San Francisco DA's office?

09:37:25 17 A. I don't think so.

09:37:25 18 Q. Did you ever discuss the secret witness fund
09:37:27 19 with George Butterworth?

09:37:34 20 A. I did not.

09:37:35 21 Q. Do you have any understanding as to whether
09:37:37 22 George Butterworth in 1989 and 1990 was aware of the
09:37:42 23 existence of the secret witness fund?

0 37:44 24 A. I haven't the faintest idea, sir.

09:37:47 25 Q. But you didn't ever discuss it with him?

0 10:29 1 the police department in the disclosure to defense
09:40:35 2 counsel of potentially exculpatory evidence?

09:40:44 3 A. I was taught to turn over all evidence.
09:40:50 4 Everything.

09:40:51 5 Q. To whom do you turn over evidence?

09:40:55 6 A. To whatever DA I'm dealing with.

09:40:57 7 Q. So what you were taught was to turn over all
09:41:01 8 the evidence to the DA?

09:41:03 9 A. That's right. Hold nothing back.

09:41:11 10 Q. In the case where there had been a request for
09:41:15 11 money from the secret witness fund, what, if any, steps
09:41:17 12 did you ever take to inform a district attorney about
09:41:20 13 that?

09:41:24 14 A. I don't know that I did.

09:41:26 15 Q. Did you ever receive training in whether or
09:41:29 16 not a reward offered to a witness, a financial reward
09:41:35 17 offered to a witness, is something that needed to be
09:41:46 18 disclosed either to the DA or to the defense counsel?

09:41:48 19 MR. QUADRA: Objection. Vague.

09:41:49 20 Go ahead.

09:41:50 21 THE WITNESS: Could you repeat that, sir.

09:41:53 22 Q. (By Mr. Peters) Did you ever receive any
09:41:53 23 training during your employment at the San Francisco
0 41:56 24 Police Department in whether the offer of payment to a
09:41:59 25 potential witness is something that should be disclosed

0. 56:35 1 department, did you ever receive any instructions on
09:56:39 2 whether or not witnesses to a particular event should be
09:56:41 3 given the opportunity to talk to each other about their
09:56:46 4 respective testimony?

09:56:48 5 Does that make sense, that question?

09:56:50 6 A. (No response.)

09:56:50 7 Q. Let me rephrase it because I'm not sure I did
09:56:53 8 a very good job with it. Okay? Let me just start over.

09:56:56 9 Did you ever receive any training at the
09:56:59 10 police department in whether witnesses to a particular
09:57:02 11 event should be put together to talk about their
09:57:05 12 respective recollections of what happened?

09:57:09 13 A. All the training I received, you separate the
09:57:11 14 witnesses.

09:57:12 15 Q. Did you ever receive any training that
09:57:13 16 encouraged you to put witnesses together to talk to each
09:57:16 17 other about what it was that happened?

09:57:21 18 A. I've never done that, sir.

09:57:23 19 Q. Are there any circumstances that you can think
09:57:25 20 of when you would recommend that a homicide inspector
09:57:29 21 put two witnesses to an event together to talk over what
09:57:32 22 each of them was saying happened?

09:57:39 23 A. I can only testify about what I've done,
09:57:42 24 what's done in my presence.

09:57:44 25 Q. Okay.

0 57:45 1 A. I've never done that.

09:57:46 2 Q. And would you -- do you have an opinion about
09:57:49 3 whether that's an appropriate investigative technique?

09:57:53 4 MR. QUADRA: Objection to the extent it calls
09:57:54 5 for a legal conclusion. Expert testimony.

09:57:59 6 You can answer.

09:58:01 7 THE WITNESS: May I proceed?

09:58:02 8 MR. QUADRA: Yes.

09:58:03 9 THE WITNESS: When you say putting two people
09:58:05 10 together, I assume you're talking about putting them in
09:58:07 11 a room together so you can listen to what they talk
09:58:09 12 about.

09:58:10 13 Q. (By Mr. Peters) Or on the phone together, for
09:58:12 14 example. Just giving them the opportunity to talk over
09:58:14 15 with each other their respective testimony.

09:58:21 16 A. I don't recall ever doing that.

09:58:22 17 Q. And do you have an opinion about whether or
09:58:24 18 not that would be an appropriate investigative
09:58:26 19 technique?

09:58:27 20 MR. QUADRA: Same objection.

09:58:34 21 THE WITNESS: Putting them together to talk in
09:58:36 22 a room, no, I never do that.

09:58:40 23 Q. (By Mr. Peters) How about putting them on the
0 58:42 24 phone together, "Hey, here. Why don't you guys talk
09:58:45 25 over on the phone what each of you recalls, and I'll

0 58:48 1 just step out in the hall. And you let me know when
09:58:51 2 you're done"?

09:58:52 3 A. No.

09:58:52 4 Q. How about doing that?

09:58:53 5 A. No, no.

09:58:55 6 Q. You would not do that, correct?

09:58:56 7 A. I would not do that.

09:58:57 8 Q. And you would not do that because you would
09:58:58 9 not consider that to be an appropriate thing to do,
09:59:00 10 right?

09:59:02 11 A. To talk over testimony? No.

09:59:04 12 Q. And the reason that you wouldn't think that
09:59:05 13 was an appropriate thing to do is that the people might
09:59:10 14 influence each other's testimony, get their stories
09:59:14 15 straight, something along those lines, correct?

09:59:17 16 A. If the two people were at the scene of a crime
09:59:20 17 together, then there's nothing to go over. They know
09:59:23 18 what each person saw.

09:59:24 19 Q. Right.

09:59:25 20 A. So they would be interviewed separately. So
09:59:31 21 there's no reason to try to corroborate something
09:59:33 22 because you've already given statements, if that's what
09:59:36 23 you're referring to.

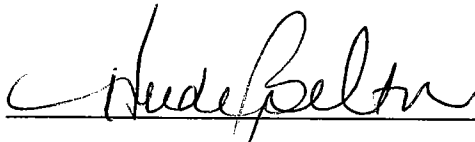
0 59:43 24 Q. If I've already asked this question, I
09:59:45 25 apologize. I don't think I have, but I want to make

1 STATE OF CALIFORNIA) ss.
2

3 I hereby certify that the deponent in the
4 foregoing deposition was by me duly sworn to testify to
5 tell the truth, the whole truth and nothing but the
6 truth in the within-entitled cause; that said deposition
7 was taken at the time and place therein stated; that the
8 deposition is a true record of the deponent's testimony
9 as reported to the best of my ability by me, a duly
10 certified shorthand reporter and a disinterested person,
11 and was thereafter transcribed under my direction into
12 typewriting by computer.

13 I further certify that I am not interested in
14 the outcome of the said action, nor connected with, nor
15 related to any of the parties in said action, nor to
16 their respective counsel.

17 IN WITNESS WHEREOF, I have hereunto set my
18 hand this 27th day of January, 2005.
19

20 
21 _____
22 HEIDI BELTON, CSR #12885, RPR
23
24
25